

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

**ETHAN TODD STEWART,
TDCJ-CID #1754814,**

Petitioner,

v.

RICK THALER,¹

Respondent.

CIVIL CASE NO. 2:12-CV-00396

OPINION AND ORDER OF TRANSFER

This is a habeas action filed by a state prisoner incarcerated at the Garza West Unit in Beeville, Texas (D.E. 1). Petitioner states his incarceration results from a judgment of commitment entered by the 435th District Court of Montgomery County, Texas (*Id.*).

A habeas action may be filed either in the district where petitioner is in custody or in the district in which petitioner was convicted. 28 U.S.C. § 2241(d); *Wadsworth v. Johnson*, 235 F.3d 959 (5th Cir. 2000). Petitioner's place of incarceration is in the Corpus Christi Division of the Southern District of Texas, 28 U.S.C. § 124(b)(6), and he was committed by a court located in the Houston Division of the Southern District of Texas. 28 U.S.C. § 124(b)(2).

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought. 28 U.S.C. §§ 1404(a) and 1406(a). Because the judgment of commitment was entered in Montgomery County, it is more convenient for the action to be handled in the Houston Division

¹ Rick Thaler is the Director of the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), and is the proper respondent in this case. Rules 2(a), Rules Governing § 2254 Cases. The Clerk shall substitute Rick Thaler as the respondent.

of the Southern District of Texas. The records of his commitment, the prosecutor and defense lawyer, and the witnesses are all located in the Houston Division of the Southern District of Texas.

Accordingly, it is ordered that the Clerk of the Court TRANSFER this action to the United States District Court for the Southern District of Texas, Houston Division. All pending motions are denied as moot, but subject to re-urging after the case is received by the transferee court.

ORDERED this 2nd day of January 2013.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE